

REMARKS

Initially, Applicants would like to express appreciation to the Examiner for the detailed Official Action provided, for the acknowledgment of Applicants' Claim for Priority and receipt of the certified copy of the priority document, and for the acknowledgment of Applicants' Information Disclosure Statement by return of the Form PTO-1449.

Applicants acknowledge with appreciation the Examiner's indication of allowable subject matter in claims 2-4.

Upon entry of the above amendment, the specification and claim 1 will have been amended. Accordingly, claims 1-4 are currently pending. Applicants respectfully request reconsideration of the outstanding objections and rejections and allowance of claims 1-4 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has objected to the drawings as failing to comply with 37 C.F.R. § 1.84(p)(4) because reference characters "71" and "79" both designate a "ball seat". However, it is respectfully submitted that the basis for such objection is not appropriate and Applicants thus respectfully request reconsideration and withdrawal of the objection to the drawings. In this regard, the Examiner's attention is directed to figures 7, 8, and 10, in which the reference numeral "71" designates a cone axle; and the Examiner's attention is directed to the specification page 11, lines 34-35, which describes the "cone axle 71". Further, the Examiner's attention is directed to figure 7, in which the reference numeral "79" designates the ball seat; and the Examiner's attention is directed to the specification page 12, lines 1-6, which describes the "ball seat 79". Accordingly, in view

of the above noted remarks, it is believed that the objection to the drawings is not appropriate, and Applicants respectfully request reconsideration and withdrawal of the outstanding objection.

The drawings are objected to as failing to comply with 37 C.F.R. § 1.84(p)(5) because they do not include reference numerals 66, 66a, 74, and 245. In response thereto, Applicants have deleted the second full paragraph on page 13 of the specification. Reference numerals 66, 66a, 74, and 245 do not appear in the specification, as amended. Accordingly, in view of the above noted amendments and remarks, it is believed that the objection to the drawings has been overcome, and Applicants respectfully request reconsideration and withdrawal of the outstanding objection.

The Examiner has objected to the specification for minor informalities, as including incomplete sentences and references to claim numbers. In response thereto, Applicants have amended the specification as suggested by the Examiner. Accordingly, in view of the above noted amendments and remarks, it is believed that the objection to the specification has been overcome, and Applicants respectfully request reconsideration and withdrawal of the outstanding objection.

The Examiner has rejected claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully submit that in view of the herein contained amendments and remarks, the basis for such rejection is no longer appropriate and Applicants thus respectfully request reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. § 112, second paragraph.

The Examiner has rejected claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite and functional because insufficient structure or structural relationships are recited to support the statements that “the conical body and the disk body are provided with a synchronous mechanism thereby synchronizing their rotation about their center axes”. In response thereto, Applicants have amended claim 1 to set forth a swash plate type variable capacity fluid machine including, inter alia, “the conical body and the disk body include a synchronous mechanism that synchronizes their rotation about their center axes”.

This amendment is fully supported by the specification, including the claims and drawings, and no prohibited new matter has been added. In particular, support for this amendment may be found at least in the specification, pages 5-6 and in figures 1, 2, and 8. Applicants’ claimed invention includes a cone 3 and a disk 5 arranged confronting each other at the circular disk surface 5a; and a cylindrical disk axle 23, coaxial with and on the rear side of the disk 5, rotatably supported in a crossing axle support 27 by the bearing 25. The disk 5 includes an engagement groove 29 provided on a diameter on the disk surface 5a. The engagement groove 29 is semicircular in cross section so as to allow a rounded edge of the partition plate 7 to snugly fit in the groove 29, thereby providing a synchronous mechanism that allows the cone 3 and the disk 5 to rotate in synchronization when supplied with rotational power transmitted via the partition plate 7. Claim 1, as amended, sets forth a swash plate type variable capacity fluid machine in which, inter alia, “the conical body and the disk body include a synchronous mechanism that synchronizes their rotation about their center axes”. Therefore, since claim 1, as amended, clearly sets forth the synchronous mechanism and all of the necessary

structure and structural relationships between the elements thereof, it is respectfully submitted that the claim, including the phrase “a synchronous mechanism that synchronizes their rotation about their center axes”, is clear and definite.

Accordingly, in view of the above noted amendments and remarks, claim 1 is believed to fully comply with 35 U.S.C. § 112, second paragraph, and Applicants respectfully request reconsideration and withdrawal of the outstanding rejection under 35 U.S.C. § 112, second paragraph.

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by MIKULAN (U.S. Patent No. 4,648,813).

However, Applicants note that MIKULAN fails to show each and every element recited in the claim 1. In particular, claim 1 sets forth a swash plate type variable capacity fluid machine including, inter alia, a conical body and a disk body; “an enclosure wall whose inner spherical surface surrounds a space in front of a circular disk surface of the disk body, the spherical surface being concentric with the disk surface;” partitioning means for dividing the space between the conical body and the disk body into a plurality of variable capacity compartments; and supplying/discharging through holes; the partitioning means comprising a partition plate movably fitted in a diameter groove of the conical body and an abutment line formed between the conical body and the disk body on their confronting surfaces; “the enclosure wall is integrally connected to the disk body; and the conical body and the disk body include a synchronous mechanism that synchronizes their rotation about their center axes”.

Applicants’ claimed swash plate type variable capacity fluid machine includes a conical body 3 and disk body 5 positioned to confront each other. The disk 5 includes an

engagement groove 29 provided on a diameter on the disk surface 5a. The engagement groove 29 is semicircular in cross section so as to allow a rounded edge of the partition plate 7 to snugly fit in the groove 29, thereby providing a synchronous mechanism that allows the cone 3 and the disk 5 to rotate in *synchronization* when supplied with rotational power transmitted via the partition plate 7. Further, as shown in figure 7, the disk 5 is *integrally connected* to the enclosure wall 65 to *rotate together as a whole*. Therefore, the enclosure wall 65 can be simply constructed in a hemispherical shape. Accordingly, this configuration of the Applicants' claimed fluid machine provides advantages over the prior art. For example, the partition plate 7 slides on the enclosure wall 65 is a much smaller area, resulting in improved durability of the device. See particularly page 13, lines 7-11 of the specification; and figures 7 and 8.

However, the MIKULAN patent discloses a fluid transfer apparatus including a conical body 40, a disk body 10, a partitioning means 30, and an enclosure wall 62, 64. As shown in the figures, and as described at least in column 3, lines 23-43, the disk body 10 rotates relative to the enclosure 60, and in particular, relative to the lower partial housing 64. Accordingly, the disk body 10 rotates while the lower partial housing 64 remains still. The disk body 10 and the lower partial housing 64 are clearly, then, separate and distinct members of the device, which do not even move together. In this regard, the disk body 10 rotates while the lower partial housing 64 does not rotate, and remains still. Accordingly, the disk body 10 and the lower partial housing 64 are separate members of the device, and the enclosure wall can not fairly be described as integrally connected to the disk body, as claimed. Thus, the MIKULAN patent does not show a swash plate type variable capacity fluid machine including, inter alia, "an enclosure wall

whose inner spherical surface surrounds a space in front of a circular disk surface of the disk body, the spherical surface being concentric with the disk surface;" and "the enclosure wall is integrally connected to the disk body; and the conical body and the disk body include a synchronous mechanism that synchronizes their rotation about their center axes", as set forth in claim 1. Since the reference fails to show each and every element of the claimed device, the rejection of claim 1 under 35 U.S.C. § 102(b) over MIKULAN is improper and withdrawal thereof is respectfully requested.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the objections and rejections, and an early indication of the allowance of claims 1-4.

SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the present amendment is proper and that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicants' invention as recited in claims 1-4. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

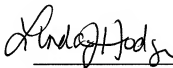
Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Any amendments to the claims which have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature,

and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

Respectfully Submitted,
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